

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Richard J. Hettler, et al.,

Civil 02-1140 JMR/FLN

Plaintiffs,

v.

REPORT & RECOMMENDATION

Ruth Doyne Kahn, Kenneth  
Kahn, et al.,

Defendants.

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On May 29, 2002, Plaintiffs filed a complaint together with an application to proceed *in forma pauperis*. On July 1, the Court denied Plaintiffs' application to proceed *in forma pauperis* because neither Mr. Hettler, nor any of the other entities which purported to be Plaintiffs, had established their indigency to the Court's satisfaction, and in any event, even if insolvent, the Plaintiff entities (other than Mr. Hettler personally) were not entitled to IFP status. The Court gave Plaintiffs twenty (20) days within which to pay the full filing fee. None of the Plaintiffs paid the filing fee. But within the 20 days, by way of a "Motion for an expedited reversal in whole or in part, of the Magistrate's 7/1/02 Order," Plaintiffs sought District Court review of the Magistrate's July 1 Order. Plaintiffs also sought reconsideration of the July 1 Order, which the Magistrate Judge denied. The pendency of that appeal was the reason the Magistrate Judge declined to reconsider the July 1 Order. Plaintiffs have now filed a "Motion for Expedited Trial" [#10], and a "Request for Case Status" [#11], both of which have been referred to the undersigned for a Report and Recommendation.

As none of the Defendants have been served, and as none of them have answered, Plaintiffs' motion for expedited trial is premature, and should be denied. For the reasons set

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forth in our July 1, 2002, Order denying Plaintiffs' IFP application, this Magistrate Judge continues to believe that the case should be dismissed because Plaintiffs do not qualify for IFP status and have not paid the filing fee.

For all of the foregoing reasons, IT IS HEREBY RECOMMENDED that the Plaintiffs' complaint be DISMISSED.

DATED: Nov. 20, 2002.

  
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FRANKLIN L. NOEL  
United States Magistrate Judge

Pursuant to Local Rule 72.1(c)(2), any party may object to this report and recommendation by filing with the Clerk of Court and serving all parties, within ten days after being served with a copy thereof, written objections which specifically identify the portions of the proposed findings, recommendations or report to which objection is being made, and a brief in support thereof. A party may respond to the objecting party's brief within ten days after service thereof. All briefs filed under this rule shall be limited to ten pages. A judge shall make a de novo determination of those portions to which objection is made.